IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FARAD CONTINUATION SHEET

MISC.CIVIL APPLICATION NO.12 OF 2004

Ajay Balkrishna Todankar ...Applicant

Vs.

Mrs.Bharati Ajay Todankar ...Respondent

Mr.R.R.Salvi for the Applicant
Ms B.P.Jakhade for the Respondent.

CORAM: A.S.OKA, J.

DATED: AUGUST 19, 2004.

P.C.:

1. Heard Shri Salvi for the Applicant and Mr.Gangal with Mrs.Jakhade for the Respondent. The Applicant is the wife and the Respondent is the husband. The Applicant-wife is a resident of Sindhudurg District and she filed a suit in the Court of Civil Judge (S.D.), Oros, District Sindhudurg under Section 18 of the Hindu Adoption and Maintenance Act, 1956. The Respondent-husband has filed a Petition for divorce in the Court of Civil Judge (S.D.), Panvel. The case of the Applicant is that the distance between Sindhudurg and Panvel is more than 400 kms. The Applicant-wife is not in a position to attend the matrimonial petition filed by the Respondent in the Court at Panvel. The learned Counsel for the Respondent Shri Gangal submitted that the Court at Oros has no jurisdiction to entertain and try the suit under

section 18 of Hindu Adoption and Maintenance Act, 1956. He submitted that the Respondent who is employed at Panvel is not in a position to attend the Court at Oros, District Sindhudurg considering the nature of his employment. Mrs.Jakhade pointed out that the Applicant has suppressed from the Court that a Petition under Section 24 of Hindu Marriage Act has been filed in the Court at Panvel.

2. I have considered the rival submissions. In so far issue of jurisidiction of Court Civil Judge (S.D.), Oros, District Sindhudurg is concerned, it is for the Respondent to raise that contention in the suit filed by the Applicant. Today I am not concerned with the said issue of jurisidiction. Considering the averments made in the Application, I find that tremendous inconvenience will be caused if the Applicant is required to travel from District Sindhudurg to Panvel. The Applicant will have to undertake a long journey frequently. Therefore, a case is made out for transfer matrimonial Petition.

3. As far as other contention regarding application for maintenance made in the Court at Civil Judge (S.D.), Panvel is concerned, same has nothing to do with the merits of this Application under Section 24 of Code of Civil Procedure, 1908.

4. In view of this position Application deserves to be

allowed and the same is allowed in terms of prayer clause (b). No order as to costs.

5. At this stage Shri Gangal for the Respondent states that date for appearance in the Petition filed by the Respondent after its transfer to the Court at Oros be fixed and hearing of the Petition be expedited. The said request is reasonable.

6. The learned Civil Judge (S.D.), Panvel shall transfer the record and proceedings of Hindu Marriage Petition No.33 of 2003 on production of an authenticated copy of this order to the Court of Civil Judge (S.D.) at Oros, Sindhudurg as expeditiously as possible.

7. Parties are directed to appear before the learned Civil Judge (S.D.), Oros, District Sindhudurg on 27th September 2004 for fixing the schedule of hearing of Hindu Marriage Petition No.33 of 2003. The learned Trial Judge will decide both the matters i.e. the suit of Applicant and the Petition filed by the Respondent as expeditiously as possible and preferably before 30th June 2005.

8. Parties and the concerned courts to act upon an ordinary copy of this order duly authenticated by the Court Sheristedar.

Judge.